

1 Kenneth M. Motolenich-Salas (Bar No. 027499)
2 MotoSalas Law, PLLC
3 16210 North 63rd Street
4 Scottsdale, AZ 85254
5 Telephone: 202-257-3720
6 E-mail: ken@motosalaslaw.com
7 Attorney for Plaintiff Loo Tze Ming

5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF ARIZONA**

8 Loo Tze Ming,

9 Plaintiff,

10 v.

11 Fitness Anywhere LLC,

12 Defendant.

13 No. CV-22-02042-PHX-SPL

14 **PLAINTIFF LOO TZE MING'S**
15 **MOTION TO CONTINUE STAY**

16 Plaintiff Loo Tze Ming hereby submits this Motion to Continue Stay pursuant to this
17 Court's order of December 15, 2023 (Doc. 25), and states as follows:

18 **FACTS**

19 On December 15, 2023, this Court ordered "that this action is stayed but shall be
20 dismissed without further notice on March 6, 2023, unless prior thereto, a motion to continue
21 the stay is filed or the Court is advised that the bankruptcy stay has been lifted and the parties
22 are ready to proceed with this case." (Doc. 25.) Counsel for Plaintiff has checked today the
23 status of the bankruptcy stay in the case that is the subject of the previously-filed Notice of
24 Bankruptcy (United States Bankruptcy Court for the Central District of California, Case No.
25 8:22-bk-10949-SC). According to the record in that case (Docket Report dated March 5,
26 2024 listing recent filings attached hereto as Exhibit 1), the bankruptcy stay in that matter
27 has not been lifted as of today. Defendant has still not entered an appearance in this Action
28 or otherwise plead responsively.¹

1 In a related matter pending in this Court in which Plaintiff is also a party (*JFXD Capital LLC v. Ming and trx.com*, CV-23-02330-PHX-ROS, Doc. 88), Judge Silver *sua sponte*

ARGUMENT

In light of the fact that the bankruptcy stay has not yet been lifted in the California bankruptcy case, Plaintiff respectfully requests that the stay be extended for an additional three (3) months. Section 11 U.S. Code § 362 of the Bankruptcy Code imposes a broad automatic stay of a wide range of actions against a debtor in bankruptcy. As noted previously in its response to this Court's earlier Order to Show Cause, Plaintiff requests, out of an abundance of caution as it relates to the California bankruptcy proceeding and a desire not to violate any stay that might be in place, that this Arizona case be stayed pending the lifting of any automatic stay in the Bankruptcy. Whereupon, Plaintiff shall promptly proceed with its request for entry of default and motion for default judgment ordering transfer of the disputed domain name to the Plaintiff, along with other relief available under 15 USC § 1114(2)(d)(iv)-(v).

Wherefore, Plaintiff respectfully requests that this Court enter an Order, a proposed form of which is filed concurrently and attached hereto, extending the stay through June 6, 2024.

RESPECTFULLY SUBMITTED this 5th day of March, 2024.

MotoSalas Law, PLLC:

By:/s/Kenneth M. Motolenich-Salas
Kenneth M. Motolenich-Salas (Bar No. 027499)

dismissed with prejudice plaintiff JFXD Capital LLC’s (“JFXD”) complaint claiming ownership of the disputed domain, effectively resolving the dispute over ownership of this domain in Plaintiff’s favor. JFXD is the successor-in-interest to Fitness Anywhere’s trademarks and, at the time Fitness Anywhere had filed the UDRP action which gave rise to this action, it had already assigned the trademarks to JFXD which deprived Fitness Anywhere of standing to bring the UDRP in the first place. As such, Mr. Ming is considering seeking lift stay relief from the bankruptcy court for the purpose of having this Court enter judgment in Ming’s favor on one or more bases, *viz.*, that (i) Fitness Anywhere did not have standing to bring the UDRP since it had transferred all of its trademarks before initiating the UDRP or, in the alternative, (ii) even if it did have standing, based on Ninth Circuit precedent as laid out by Judge Silver, Fitness Anywhere’s claim of domain ownership is untenable. If Mr. Ming seeks such relief and it is granted, Mr. Ming will immediately inform this Court of such relief.

1 MotoSalas Law, PLLC
2 16210 North 63rd Street
3 Scottsdale, AZ 85254
4 Telephone: 202-257-3720
5 E-mail: ken@motosalaslaw.com
6 *Attorney for Plaintiff Loo Tze Ming*

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March, 2024, I electronically transmitted the foregoing document and all exhibits thereto to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants of record in this matter.

By: /s/ Kenneth M. Motolenich-Salas